**Resolved:** In the United States, juveniles charged with violent felonies ought be treated as adults in the criminal justice system.

Ought is desirability, so the feasibility of treating juveniles as adults is irrelevant. Ought also makes the resolution prescriptive—descriptive arguments about violating law or the Constitution mean nothing. Further, Affirming would just amend laws to make the Aff world consistent with them. Felonies are “crime[s] for which the punishment in federal law may be death or imprisonment for more than one year” (Merriam-Webster). Accept Aff definitions and interps A. to offset Neg timeskew. Shifting the AC evaluation forces a 13 to 7 restart in the 1AR, when Affs already lose more, and B., because Neg can adapt and link their arguments into Aff definitions.

Arguments about the harms of adult court or punishments are irrelevant because juveniles have already been charged with violent felonies. This places them in the adult system in the Neg world too because juveniles can only be charged with delinquencies in the juvenile system.

LFK writes:

[Arizona Foundation for Legal Services and Education and Arizona State Bar.] “Question 25014: What is the difference between an adjudication in juvenile court and a conviction in adult court?” LawForKids.org.

Then look at the purposes of juvenile and adult courts. Adult court punishes people for their unlawful conduct. A.R.S. § 13-101. Juveniles, on the other hand, are still under the care and control of a parent or custodian. A.R.S. § 8-201. The emphasis in juvenile court is on rehabilitation of a child’s unlawful conduct. Juvenile courts handle most juvenile unlawful conduct. For some serious or violent conduct, juveniles are transferred to adult court where the child is treated as if they were an adult. A.R.S. § 13-501. In juvenile court, a child’s unlawful conduct is called a delinquent act. A.R.S. § 8-201. In adult court, juveniles face charges of a criminal offense under the same rules as adults. A.R.S. § 8-201. A child found guilty in adult court is not delinquent, but, just like an adult, is convicted. A.R.S. § 8-201(10). Therefore, a juvenile who is convicted in adult court has a conviction on their criminal record. A juvenile in adult court is sentenced the same way an adult is except as provided in A.R.S. § 13-921. That law states if a child in adult court is placed on probation, the child is under adult probation supervision, but can use the services available under juvenile probation supervision. On the other hand, a child adjudicated in juvenile court is not convicted of a crime, does not have the civil disabilities usually imposed because of a conviction,and is not disqualified for civil service, EXCEPT as provided in A.R.S. §§ 13-904(H); 13-2921.01; 17-340; 28-3304; 28-3306; and 28-3320. A.R.S. § 8-201(3). These exceptions involve the suspension of gun rights under certainconditions, (A.R.S. § 13-904(H)); the conduct of aggravated harassment, (A.R.S. § 13-2921.0); the revocation, suspension and denial of a license to take or possess wildlife, (A.R.S. § 17-340); driver’s license revocation or suspension and attendance of traffic survival school. (A.R.S. § 28-3304; A.R.S. § 28-3306) Therefore, only juvenile adjudications that involve one or more of the above exceptions under the laws or a finding of guilt in adult court are considered convictions. On a job application, a juvenile does not have a conviction unless the juvenile’s unlawful behavior meets one of the above exceptions or the juvenile was convicted in adult court.

Further, “treated as” does not mean “treated with.” Normal means allows for separate facilities for juveniles, so arguments about placing juveniles with adults are irrelevant. Additionally, even if “treated as” means exactly the same, separate facilities treats juveniles and adults exactly the same by grouping each with its own age and holding them to the same standards, likes with likes.

Also, Neg must demonstrate a relevant difference between juveniles and adults that justifies distinct treatment. Neg may not just argue that adult punishments are harmful as the logical conclusion is that neither adults nor juveniles should be treated by that system and therefore should be treated the same. This also includes arguments why a juvenile system is good without articulating why adults would be harmed.

The Value is Morality.

The Criterion is Maximizing Citizens’ Rights.

First, treating people as ends rather than means requires saving the greatest amount possible for an impartial decisionmaker.

Rakowski writes:

Eric Rakowski. “Taking and Saving Lives.” *Columbia Law Review*. June 1993.

“The core conviction behind the "ends not means" principle is that normal, blameless human beings are equally valuable, autonomous creatures who cannot rightly be used as the tools of other people. But this conviction points in two directions in which Costa and others who have trumpeted the principle (or some related distinction between doing and allowing or positive and negative duties) are loath to go. On one side, it presses toward the consequentialist view that individuals' status as moral equals requires that the number of people kept alive be maximized. Only in this way, the thought runs, can we give due weight to the fundamental equality of persons; to allow more deaths when we can ensure fewer is to treat some people as less valuable than others. Further, killing some to save others, or letting some die for that purpose, does not entail that those who are killed or left to their fate are being used merely as means to the well-being of others, as would be true if they were slain or left to drown merely to please people who would live anyway. They do, of course, in some cases serve as means. But they do not act merely as means. Those who die are no less ends than those who live. It is because they are also no more ends than others whose lives are in the balance that an impartial decisionmaker must choose to save the more numerous group, even if she must kill to do so.”

This is especially true with proportionality—focusing on proportionate punishment presumes the importance of due, but undermines itself by allowing more disproportionate harms via rights violations if articulated as a side-constraint. This also controls the internal link to contracts arguments and the Constitution—people rationally would consent to a utilitarian system because it maximizes the probability they get their due on an individual level. Aggregation is not required for one to value her own interests.

Second, the government is the actor because it oversees criminal justice. This requires util because government is created by citizens for their protection. Citizens cede rights to government, so its reciprocal obligation is to protect their interests. Even if juveniles cannot rationally self-reflect, this supercharges the obligation and forces the government to protect them through its own analysis. Deontology is bad because it fails to prescribe action. The entire purpose of state policy is to manage between conflicting rights, but deontology makes this impossible because some rights will always conflict, so it is useless in guiding governments.

And, the act-omission distinction is irrelevant in government policy because of its guiding role. Both authorize outcomes, so the only question is their relative goodness.

Sunstein and Vermeule write:

Copyright (c) 2005 The Board of Trustees of Leland Stanford Junior University Stanford Law Review December, 2005 58 Stan. L. Rev. 703 LENGTH: 24325 words ARTICLE: THE ETHICS AND EMPIRICS OF CAPITAL PUNISHMENT: Is Capital Punishment Morally Required? Acts, Omissions, and Life-Life Tradeoffs NAME: Cass R. Sunstein \* and Adrian Vermeule \*\*

Most generally, government is in the business of creating permissions and prohibitions. When it explicitly or implicitly authorizes private action, it is not omitting to do anything or refusing to act. Moreover, the distinction between authorized and unauthorized private action - for example, private killing - becomes obscure when the government formally forbids private action but chooses a set of policy instruments that do not adequately or fully discourage it.

Thus, I advocate juveniles charged with violent felonies ought be treated as adults with respect to capital punishment. I reserve the right to clarify.

I contend the age-based distinction in death penalty produces bad outcomes.

The ban on juvenile death penalty is grounded in international precedent that kills the Court’s independence.

Dinh writes:

Dinh 07—(Viet D.Dinh, Professor of Law, Georgetown University Law Center, Threats to Judicial Independence, Real and Imagined, 2007, http://www.georgetownlawjournal.org/issues/pdf/95-4/dinh.pdf)

No wonder Chief Justice John Roberts, during his Senate conﬁrmation hearings, likened looking at foreign law for support to “looking out over a crowd and picking out your friends. You can ﬁnd them. They’re there.” 92 The crucial point here is not that federal court use of foreign law is or is not appropriate. The key question is how the practice relates to judicial independence. One of the principal functions of judicial independence is to insulate judges from public opinion, to free them to adjudicate disputes based on what the law requires and nothing else. Only by focusing on the law itself, and ignoring external pressures, will judges reach legally sound results. Consulting foreign law—such as, legislation enacted by popular majorities in other countries—is another name for consulting public opinion. Sometimes proponents of foreign law make this point explicit. Their fear is that if the United States engages in a particular practice (such as enforcing the death penalty against juveniles or the mentally retarded), other countries will look with disfavor on us. After all, they say, the United States is “subject to the scrutiny of ‘a candid World.’” 93 This is no different in principle from proposing that judges should resolve disputes [to] in a way that will prevent American citizens (or members of Congress, or activist groups) from looking with disfavor on them. For the same reason judges should decide cases without being swayed by popular pressure fromAmerican citizens, so should they decide cases without being swayed by popular pressure from foreign citizens.

Juvenile death penalty is especially key—it’s the brink that determines future precedent.

Bradley writes:

Bradley 2002 [Curtis A , Richard A. Horvitz Professor of Law and Professor of Public Policy Studies – Duke Univeristy, “The juvenile death penalty and international law”, Duke Law Review, <http://www.highbeam.com/doc/1G1-102105768.html>]

Although important on its own terms, the juvenile death penalty issue may also have broader implications for the relationship between U.S. law and international human rights law. Litigants and scholars have met with at least modest success in attempting to have international human rights law incorporated into the U.S. legal system. This success, however, has primarily come in the context of civil lawsuits seeking damages for human rights abuses committed in foreign countries. (21) Increasingly, litigants and scholars are seeking to build on this success and persuade U.S. courts to apply international human rights law internally as a basis for overriding domestic laws and practices.(22) The juvenile death penalty has become a central focus of this effort, and the way in which the international law challenges are resolved in this context may have a significant impact on the viability of other attempts to "domesticate" international human rights law.

Transitioning democracies model our independent judiciary— independence is key to their successful transition.

CJA writes:

The Center for Justice and Accountability et al, '04 [Amici Curiae in support of petitioners in Al Odah et al. v USA, "Brief of the Center for Justice and Accountability, the International League for Human Rights, and Individual Advocates for the Independence of the Judiciary in Emerging Democracies," 3-10,[http://www.jenner.com/files/tbl\_s69NewsDocumentOrder/FileUpload500/82/AmiciCuriae\_Center\_for\_Justice\_Int\_League\_Human\_Rights\_Adv\_For\_Indep\_Judiciary2.PDF](http://www.jenner.com/files/tbl_s69NewsDocumentOrder/FileUpload500/82/%0BAmiciCuriae_Center_for_Justice_Int_League_Human_Rights_Adv_For_Indep_Judiciary2.PDF))

Strong, independent judiciary is essential to the protection of individual freedoms and the establishment of stable governance in emerging democracies around the world. A. Individual Nations Have Accepted and Are Seeking to Implement Judicial Review By A Strong, Independent Judiciary. Many of the newly independent governments that have proliferated over the past five decades have adopted these ideals. They have emerged from a variety of less-than-free contexts, including the end of European colonial rule in the 1950's and 1960's, the end of the Cold War and the breakup of the former Soviet Union in the late 1980's and 1990's, the disintegration of Yugoslavia, and the continuing turmoil in parts of Africa, Latin America and southern Asia. Some countries have successfully transitioned to stable and democratic forms of government that protect individual freedoms and human rights by means of judicial review by a strong and independent judiciary. Others have suffered the rise of tyrannical and oppressive rulers who consolidated their hold on power in part by diminishing or abolishing the role of the judiciary. And still others hang in the balance, struggling against the onslaught of tyrants to establish stable, democratic governments. In their attempts to shed their tyrannical pasts and to ensure the protection of individual rights, emerging democracies have consistently looked to the United States and its Constitution in fashioning frameworks that safeguard the independence of their judiciaries. See Ran Hirschl, The Political Origins of Judicial Empowerment through Constitutionalization: Lessons from Four Constitutional Revolutions, 25 Law & Soc. Inquiry 91, 92 (2000) (stating that of the “[m]any countries . . . [that] have engaged in fundamental constitutional reform over the past three decades,” nearly all adopted “a bill of rights and establishe[d] some form of active judicial review”). 19 Establishing judicial review by a strong and independent judiciary is a critical step in stabilizing and protecting these new democracies. See Christopher M. Larkins, Judicial Independence and Democratization: A Theoretical and Conceptual Analysis, 44 Am. J. Comp. L. 605, 605-06 (1996) (describing the judicial branch [has] as having "a uniquely important role" in transitional countries, not only to "mediate conflicts between political actors but also [to] prevent the arbitrary exercise of government power; see also Daniel C. Prefontaine and Joanne Lee, The Rule of Law and the Independence of the Judiciary, International Centre for Criminal Law Reform and Criminal Justice Policy (1998)

Conflicts in Egypt and Libya supercharge the link. Democratic transitions are key to preventing many scenarios for extinction.

Diamond writes:

Diamond, 1995. Larry Diamond, senior fellow at the Hoover Institution, December 1995, Promoting Democracy in the 1990s, http://wwics.si.edu/subsites/ccpdc/pubs/di/1.htm.

OTHER THREATS This hardly exhausts the lists of threats to our security and well-being in the coming years and decades. In the former Yugoslavia nationalist aggression tears at the stability of Europe and could easily spread. The flow of illegal drugs intensifies through increasingly powerful international crime syndicates that have made common cause with authoritarian regimes and have utterly corrupted the institutions of tenuous, democratic ones. Nuclear, chemical, and biological weapons continue to proliferate. The very source of life on Earth, the global ecosystem, appears increasingly endangered. Most of these new and unconventional threats to security are associated with or aggravated by the weakness or absence of democracy, with its provisions for legality, accountability, popular sovereignty, and openness. LESSONS OF THE TWENTIETH CENTURY The experience of this century offers important lessons. Countries that govern themselves in a truly democratic fashion do not go to war with one another. They do not aggress against their neighbors to aggrandize themselves or glorify their leaders. Democratic governments do not ethnically "cleanse" their own populations, and they are much less likely to face ethnic insurgency. Democracies do not sponsor terrorism against one another. They do not build weapons of mass destruction to use on or to threaten one another. Democratic countries form more reliable, open, and enduring trading partnerships. In the long run they offer better and more stable climates for investment. They are more environmentally responsible because they must answer to their own citizens, who organize to protest the destruction of their environments. They are better bets to honor international treaties since they value legal obligations and because their openness makes it much more difficult to breach agreements in secret. Precisely because, within their own borders, they respect competition, civil liberties, property rights, and the rule of law, democracies are the only reliable foundation on which a new world order of international security and prosperity can be built.

Everyone is deterrable, the only question is accessing that level.

Yahya writes:

Deterring Roper’s Juveniles: Why Immature Criminal Youth Require the Death Penalty more than Adults – a Law & Economics Approach Moin A. Yahya Faculty of Law, University of Alberta Edmonton, AB Canada T6G 2H5 myahya@law.ualberta.ca (780) 492-4445 August 12, 2005

Many skeptics doubt that juveniles can be deterred, so much so that some have called juvenile criminals “super-predators.” Many non-econometric studies, particularly those done by sociologists, claim to show that punishment does not deter crime. Their studies usually involve juvenile[s] criminals who are either interviewed or followed after their release from prison. Those interviewed claim that they will re-offend regardless of what punishment awaits them, while those followed usually re-offend after being released. This, the skeptics claims, is proof of the lack of deterrence [but] I will present the econometric evidence to the contrary in the next section, but in this sub-section, I wish to focus on the basics of deterrence. Consider three youth who differ in their level of risk-tolerance. The first is risk-averse, whose utility function is given by U=x^(1/2), the second individual is risk-loving and has a utility function given by U=x^(1.5), while the third is also risk-loving but loves risk even more and has the utility function U=x^(2). Suppose all individuals have an initial income of $10,000, gain $1000 from committing crime, will be caught and convicted with probability 20%, and will face a fine f. The fine needed to deter the first individual is $3,500 (as shown above), for the second individual is $4,800, and for the third individual is $6,000 (also shown above). This shows that the more risk-loving the individual, the higher the fine has to be to keep him from crime. Suppose now that the maximum fine is $5000. The first two individuals will not commit any crimes, but the third person will. Now suppose the third person were apprehended and convicted. When he is interviewed or followed after release from prison, unless the maximum fine has been raised, he will probably re-offend again. To say that punishment does not deter is false. It did deter the first and second individual, but not the third. The solution would be raising the penalty. Suppose now that the maximum penalty is raised to $5,500. In this case, the first and second individual will still not offend. The third individual will continue to commit his crime, as the fine has not been raised high enough. This does not evidence the lack of a deterrent effect; rather it evidences penalties that are not high enough. So far, I have shown in my analysis that juveniles need to face high penalties to deter them. If we, in reality, observe that penalties so far have not had that effect, then this is not necessarily evidence of irrationally and undeterrability. On the contrary, if anything, this is evidence that society has not set the penalties high enough. Whether this is in fact what we observe is the subject of the next section where I will present the results of empirical studies regarding juvenile crime and deterrence.

Lesser ability to reason justifies the higher punishment.

Yahya 2 writes:

Deterring Roper’s Juveniles: Why Immature Criminal Youth Require the Death Penalty more than Adults – a Law & Economics Approach Moin A. Yahya Faculty of Law, University of Alberta Edmonton, AB Canada T6G 2H5 myahya@law.ualberta.ca (780) 492-4445 August 12, 2005

This article looks at the idea of juvenile culpability and maturity, and whether a diminution of rational decision-making can logically imply a lesser sentence than that which an adult could receive. Diminished reasoning, impulsiveness, and recklessness that characterizes juveniles, the Supreme Court claimed, means that youth are less blameworthy but also undeterrable. If anything, these characteristics, I argue, should lead to the opposite conclusion. If youth cannot be reasoned with, then rather than rewarding them with a diminished punishment, the optimal thing to do is to raise the penalty above what someone who can be reasoned with would need to be deterred. A wise person needs only common sense to refrain from committing crime. No or little punishment is needed to keep such an individual from harming others. A wild animal, on the other hand, can wreak havoc on its surroundings unless it is contained, if necessary, by force. No one would suggest that a wild bear or cat that viciously attacks a human should not be dealt with harshly simply because animals have less capacity to reason and cannot be deterred. If anything, less ability to reason suggests that the punishment should be escalated. […] If in fact juveniles are risklovers who do not estimate the odds of being caught, convicted, and punished properly, and who prefer gains to losses, then their demand for crime can be described as highly inelastic. This would imply that the proper price of crime should be set much higher than the price set for adults whose demand for crime is more elastic. At the prevailing punishment severity for juveniles, social scientists and the courts may be tempted to say that they are undeterrable, but what may be observed in fact, since juveniles are typically not punished as severely as adults, is that their demand for crime is still high. Juvenile punishment has been declining in severity over the last two decades, and this may explain the growing relative juvenile crime rate. Rather than further decreasing the punishment for juvenile crimes, the solution is to increase the penalties for youth crime. The decision in Roper clearly has removed that option from policy makers.

And, harsher sentences deter juvenile crime. This is empirically proven.

Yahya 3 writes:

Deterring Roper’s Juveniles: Why Immature Criminal Youth Require the Death Penalty more than Adults – a Law & Economics Approach Moin A. Yahya Faculty of Law, University of Alberta Edmonton, AB Canada T6G 2H5 myahya@law.ualberta.ca (780) 492-4445 August 12, 2005

Professor Levitt also investigated another aspect of juvenile crime. He looked at the impact of the relative harshness of adult punishment to juvenile punishment on crimes committed by juveniles who have reached the age of majority. Given that for some states the age of majority is 18 while for others it is 17, this statistical investigation provides us with a look at whether juveniles are rational and able to conduct cost-benefit analysis regardless of whether they are 17 or 18 years of age. In fact, he found that as juveniles transitioned into adulthood, no matter what the age of majority, crimes committed by the new adults were negatively influenced by the relative harshness of adult punishment. In states where adults were punished far more severely than juveniles, when a juvenile reached the age of majority violent and property crimes dropped. In states where a juvenile reaches the age of majority at 17, the new adults committed less violent and property crimes than their 17 year old counterparts in those states where the age of majority was 18. These results belie the claim that juveniles are undeterrable and hence less culpable. It also points to the futility of drawing an arbitrary line of 18 years for when an individual can be execut[ion]ed. If anything, they react just as rationally to the incentives of punishment as adults do. What is lacking is not the rationality, but punishment as severe as that meted out to adults, for most juveniles are punished quite lightly compared to their adult counterparts. Levitt was able to conclude that what explains the relative increase in juvenile crime is the decline in severity of punishment. He estimated that 60 per cent of the increase in juvenile crime could be attributed to the drop in juvenile punishment. The United States Supreme Court’s decision in Roper will now be a further hindrance to states in their efforts to combat juvenile crime.

And, the death penalty deters—empirics prove. My evidence tests intra-jurisdictional data with a constant timeframe, so it is not biased by non-analogous control groups, making it the strongest evidence available.

Yahya 4 writes:

Deterring Roper’s Juveniles: Why Immature Criminal Youth Require the Death Penalty more than Adults – a Law & Economics Approach Moin A. Yahya Faculty of Law, University of Alberta Edmonton, AB Canada T6G 2H5 myahya@law.ualberta.ca (780) 492-4445 August 12, 2005

To overcome these methodological problems, a new series of articles have emerged where the researchers used pooled data: data that varies over time and that also comes from a cross-section of states. These articles seem to all support the proposition that the death penalty deters. Paul Zimmerman looked at state-level data from 1978 onwards and found that there was a deterrence effect, where each execution reduced an average of 14 homicides. Naci Mocan and Kaj Gittings also found a deterrence effect when they looked at state-level data from 1977- 1997, and they estimated that each execution deterred five homicides.100 Additionally, they found that commuting death sentences increased the murder rate. Joanna Shepherd found that it did not matter whether the murder was a crime of passion or a murder by an intimate of another (crimes usually claimed to be undeterrable), they also were reduced in the presence of executions. She estimated that each execution lowered three murders, while the passing of a death sentence reduced it by 4.5 murders. She also found that as the waiting period on death row was reduced, murders were deterred: one murder for every 2.75 years reduced before execution. This last observation is consistent with the prediction of economic theory that the further away the execution, the more criminals will discount the cost of committing a crime and hence commit more crimes. Another study found that 91 percent of states that suspended the death penalty following the United States Supreme Court’s moratorium on execution during the 1972-1976 period faced an increase in their murder rates, while 70 per cent of the states that re-introduced the death penalty after the moratorium saw a drop in the murder rate. Using county-level data for 3,054 counties during the 1977-1996 period, three researchers found that each execution reduced murders by 18, thereby providing the strongest proof of the deterrence effect given the highly disaggregated nature of the data used.

Deterrence outweighs recidivism because it controls the internal link—stopping first offenses means people don’t go to jail and recommit, so I garner all their offense. Additionally, I access recidivism impacts their studies don’t consider because fewer people ever enter the system and have their families disturbed, which can cause those people to commit more crimes. Additionally, all their evidence assumes a world without the death penalty, but reoffending will be low in the Aff world because multiple sentences can trigger a death sentence.

Presumption and permissibility go Aff because we always default to treating people as moral equals absent a good reason not to. Additionally, they go Aff because of the Neg time skew. Even if there are substantive reasons they go Neg, the disadvantage of Affirming denies the fairness of that substantive interpretation and requires they Affirm. Also, in a legal context, laws are permissible by nature, so Neg must prove a prohibition. Finally, absence of good reason to Negate generates an obligation to Affirm because there are harms inherent in the status quo that we cannot be complicit with and are thus obligated to make an attempt to decrease.

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